

## REMARKS

### Claim Rejections

Claims 10 and 13 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Cook (5,174,658).

### Amended Claims

By this Amendment, Applicant has amended claims 10 and 13 and added new claim 20 to this application. Claim 10 has been amended to better protect what Applicant regards as the invention, while claim 13 has been amended to correct a typographical error. It is believed that the amended and new claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art.

The amended claims are directed toward: an elongated shut apparatus comprising: a) a primary plate having a ***crescent shaped cross section defined by two tapered primary lateral ends on either side of a thicker primary middle section***, the primary plate having interior and exterior surfaces; and b) a follower plate having a ***crescent shaped cross section defined by two tapered follower lateral ends on either side of a thicker follower middle section***, the follower plate having interior and exterior surfaces, wherein the interior surface of the primary plate faces the interior surface of the follower plate, wherein each crescent shaped cross section of the primary plate and the follower plate has concave and convex edges ***terminating in points*** at opposing ends thereof.

An additional embodiment is directed to a shut apparatus further comprising a ***primary plate and a follower plate configured to adhere to one another when the shut apparatus is closed***.

As shown in Fig. 1, Applicant teaches a shut apparatus having a primary plate and a follower plate, both having crescent shaped cross sections with tapered ends forming points at each end, the tapered ends surrounding a thicker mid-sections. See, e.g., p. 3, ll. 15-25. The shut apparatus forms an airtight seal,

through the discharge of air, as a result of a closing action, to form a vacuum which causes the primary plate and the follower plate to adhere to one another.

Cook et al. disclose a pouch 20 including extensible stays 50 made of a stiff memory retaining material. It is important to note that the cross section of the stays 50 is not truly crescent shaped because the same thickness is maintained throughout the length of the stays 50. It is also important to note that the stays 50 are biased to an open state and are maintained in a closed state by slipping top portion 46 over the stays 50 to hold the stays 50 together. See, Col. 5, ll. 47-63 and Fig. 3.

Cook et al. do not teach an elongated shut apparatus comprising: a) a primary plate having a crescent shaped cross section defined by two tapered primary lateral ends on either side of a thicker primary middle section, the primary plate having interior and exterior surfaces; and b) a follower plate having a crescent shaped cross section defined by two tapered follower lateral ends on either side of a thicker follower middle section, the follower plate having interior and exterior surfaces, wherein the interior surface of the primary plate faces the interior surface of the follower plate, wherein each crescent shaped cross section of the primary plate and the follower plate has concave and convex edges terminating in points at opposing ends thereof. Nor does Cook et al. teach: a shut apparatus further comprising a primary plate and a follower plate configured to adhere to one another when the shut apparatus is closed.

It is axiomatic in U.S. patent law that, in order for a reference to anticipate a claimed structure, it must clearly disclose each and every feature of the claimed structure. Applicant submits that it is abundantly clear, as discussed above, that Cook et al. do not disclose each and every feature of Applicant's new claims and, therefore, could not possibly anticipate these claims under 35 U.S.C. § 102. Absent a specific showing of these features, Cook et al. cannot be said to anticipate any of Applicant's new claims under 35 U.S.C. § 102.

It is further submitted that Cook et al. do not disclose, or suggest any modification of the specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Thus, it is not

Application No. 10/617,374

believed that Cook et al. render obvious any of Applicant's new and amended claims under 35 U.S.C. § 103.

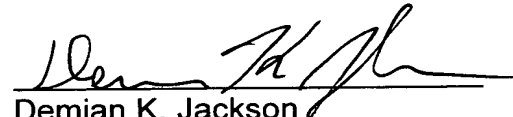
**Summary**

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

Date: September 13, 2006

By:

  
Demian K. Jackson  
Reg. No. 57,551

TROXELL LAW OFFICE PLLC  
5205 Leesburg Pike, Suite 1404  
Falls Church, Virginia 22041  
Telephone: 703 575-2711  
Telefax: 703 575-2707

**CUSTOMER NUMBER: 40144**